

REMARKS

Claims 1 – 9, 18 – 22, 27, and 28 have been examined. Claims 1 – 3, 8, 18, 20, and 22 stand rejected under 35 U.S.C. §102(a) as anticipated by WO 00/57173 (“Klein”); Claims 1 – 3, 9, 18, 21, 22, 27, and 28 stand rejected under 35 U.S.C. §102(b) as anticipated by WO 99/61888 (“Klein”); Claims 4 – 7, 9, 19, and 21 stand rejected under 35 U.S.C. §103(a) as unpatentable over Klein, and further in view of U.S. Pat. No. 6,829,753 (“Lee”); Claims 4 – 8 and 19 stand rejected under 35 U.S.C. §103(a) as unpatentable over Quake, and further in view of Lee; and Claims 18, 19, and 21 stand provisionally rejected under the doctrine of obviousness-type double patenting as unpatentable over Claims 1 – 11 and 16 of U.S. Pat. Appl. No. 09/997,205.

Claims 10 – 17, 23 – 26, and 29 – 33 have been canceled without prejudice or disclaimer as directed to a nonelected invention. Claims 1 and 18 have been amended to incorporate the limitations of Claims 6 and 19 respectively and certain amendments have been made to the remaining claims for consistency with such amendments.

The Office Action relies on Lee as disclosing the limitations originally recited in Claims 6 and 19, specifically citing Col. 25, ll. 18 – 22 of Lee. It is respectfully noted that this portion of Lee is not prior art to the claims. Specifically, the current application has a filing date of October 2, 2001 and properly claims the benefit of the filing date under 35 U.S.C. §119(e) of U.S. Prov. Pat. Appl. No. 60/237,937 and U.S. Prov. Pat. Appl. No. 60/237,938, both of which have filing dates of October 3, 2000 (*see* Filing Receipt attached as Ex. 1). Copies of these provisional applications are attached as Ex. 2 and Ex. 3 for the Examiner’s convenience. The Examiner’s attention is drawn, for example, to p. 2, l. 5 – p. 3, l. 20 of U.S. Prov. Pat. Appl. No. 60/237,938 where the claimed structure is described, as well as to Figs. 1A and 1B at p. 10 of that application and related discussion at p. 4, ll. 12 – 28. The effective filing date for the claims is thus October 3, 2000.

Lee has a filing date of June 27, 2001, claiming the benefit of the filing date under 35 U.S.C. §119(e) of U.S. Prov. Pat. Appl. No. 60/214,595, filed June 27, 2000. A copy of U.S.

Appl. No. 09/970,122
Amdt. dated July 8, 2005
Reply to Office Action of April 8, 2005

PATENT

Prov. Pat. Appl. No. 60/214,595 is attached as Ex. 4. An examination of this exhibit makes clear that the portion relied on in the Office Action is absent, as is the drawing described at Col. 25, ll. 11 – 29 of Lee. “The 35 U.S.C. 102(e) date of a reference ... is its earliest effective U.S. filing date, taking into consideration any proper benefit claims to prior U.S. applications under 35 U.S.C. 119(e) or 120 if the prior application(s) properly supports the subject matter used to make the rejection,” MPEP 706.02(f)(1), emphasis added. For purposes of examining the currently pending claims, Lee thus has an effective filing date of June 27, 2001, i.e. later than the effective filing date of the claims.

Independent amended Claims 1 and 18 are accordingly believed to be patentable over the cited art.

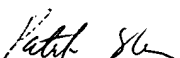
With respect to the double-patenting rejections, it is noted that U.S. Pat. Appl. No. 09/997,205 has now been allowed. A terminal disclaimer is accordingly submitted concurrently herewith, thus obviating the double-patenting rejections.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

Respectfully submitted,


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